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Ex-Agent Faces Court Order in Libel Suit

A federal judge has issued an order in the \$120 million libel suit brought by a former CIA agent against publisher Lawrence Hill that could discourage similar suits against those who write and publish books critical of the intelligence establishment.

The book in question is *Death in Washington*. Former agent David Atlee Phillips brought two libel suits, since consolidated, in 1981 against the West-

port, Conn., publisher and the authors, Donald Freed and Fred Landis.

Death in Washington charges that Phillips orchestrated a coverup of the fact that Chilean diplomat Orlando Letelier, who was killed by a bomb explosion in his car in Washington, D.C., in 1976, was assassinated by agents of the ruling junta in Chile that the CIA had helped to install and that Phillips worked to obstruct the FBI and police investigations of the assassination.

During the interrogatory period of the four-year-old suit, according to

Melvin Wulf of the New York firm of Beldock Levine & Hoffman, lawyer for the authors, "160 critical questions" designed to establish relevant facts about the case were submitted to Phillips. Because Phillips had signed an agreement on joining the CIA not to reveal classified information, he refused to reply to the interrogatories, claiming the privilege against self-incrimination since violating his secrecy oath would be a crime.

In addition, Wulf said, attorneys for the U. S. government were present during the taking of depositions and they instructed Phillips not to answer on the grounds that responding would be a breach of national security.

Judge Thomas Penfield Jackson, of the U.S. District Court for the District of Columbia, on November 20 denied the motion by the authors and publisher to dismiss the case. But he granted the "motion to compel" Phillips to answer certain questions. In view of Phillips's "failure, whether through unwilling-

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ness or inability" to comply with the order, Judge Jackson ruled that the following five facts would be taken as established and that the jury in the case, which is expected to be tried in several months, would be so instructed:

"1. That plaintiff had relationships with journalists during his career with the Central Intelligence Agency, and during his CIA service he specialized in propaganda and the planting of false information in the media;

"2. That, during plaintiff's CIA career, there were regular contacts between the CIA and DINA, the Chilean secret police agency;

"3. That plaintiff knew and worked with DINA personnel during his CIA service;

"4. That, during plaintiff's CIA career, the CIA had a working relationship with DINA personnel; and

"5. That plaintiff had both a motive for assisting, and the means to do so, in the concealment of any complicity of DINA personnel in the murder of the Chilean diplomat, Orlando Letelier, in September 1976."

In a release announcing Judge Jackson's order, publisher Lawrence Hill said: "This ruling seems to strike at the underpinnings of Phillips's libel case. It now remains to be seen whether or not Phillips will continue to press the case."

Phillips's attorney, James J. Bierbower of Washington, D.C., declined to say whether his client would press the case. "I think I'd better stay out of this because I am always concerned when one side starts sending out press releases to drum up publicity," Bierbower said. He would say only that "The lawsuit has been pressed ever since it was filed."